

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

SLUEIMAN MOHAMMED MASOUD,

Petitioner,

-vs-

MARK FILIP,¹ Acting U.S. Attorney General, JANET NAPOLITANO, Secretary of Department of Homeland Security, CHARLES MULE, Field Office Director, W.D.N.Y., MARTIN HERRON, Esq., Director, Buffalo Detention Facility,

08-CV-6345-CJS-VEB

DECISION AND ORDER

Respondents.

This case was referred to United States Magistrate Judge Victor E. Bianchini, pursuant to 28 U.S.C. § 636(b)(1). Respondents moved (Docket No. 8) on November 13, 2008, to dismiss the petition on the grounds of mootness. Magistrate Judge Bianchini issued a Report and Recommendation on that motion on January 5, 2009, recommended granting the motion to dismiss, but without prejudice, since the Department of Homeland Security ("DHS") may move to reopen removal proceedings against Petitioner, and there is a possibility he could be returned to detention in DHS custody.

The Report and Recommendation was mailed by the Clerk to Petitioner at La Familia Convenient Store, 154 East 188th Street, Bronx, New York 10468, on January 5, 2009.² To date, Petitioner has filed no objections to the second Report and

¹Substituted for the originally-named party per Fed. R. Civ. P. 25(d).

²Western District of New York Local Rule of Civil Procedure 5.1 states in pertinent part as follows: "(d) A party appearing pro se must furnish the Court with a current address at which papers may be served on the litigant. Papers sent to this address will be assumed to have been received by plaintiff. In addition, the Court must have a current address at all times. Thus, a pro se litigant must inform the Court immediately in writing of any change of address. Failure to do so may result in dismissal of the case with prejudice."

Recommendation.³ Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a *de novo* determination only of those portions of the Report and Recommendation to which objections have been made.

The Court accepts Magistrate Judge Bianchini's Report and Recommendation (Docket No. [11](#)) and for the reasons set forth in it, Respondents' motion to dismiss (Docket No. [8](#)) is granted and the petition is dismissed, without prejudice, as moot.

IT IS SO ORDERED.

Dated: January 26, 2009
Rochester, New York

ENTER:

/s/ Charles J. Siragusa
CHARLES J. SIRAGUSA
UNITED STATES DISTRICT JUDGE

³Fourteen days have elapsed since the Clerk served the Report and Recommendation by mail to Petitioner. See Fed. R. Civ. P. 6(a).